

EXHIBIT “A”

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

x

KADEEM MORGAN,

Plaintiff,

-against-

THE CITY OF NEW YORK, NEW YORK CITY POLICE
DEPARTMENT POLICE OFFICER OLDSOM
AJESULAS, Tax Reg. No.: 942931, and NEW YORK
CITY POLICE DEPARTMENT SERGEANT
JONATHAN ROSARIO, Tax Reg. No. 942478,

**STATEMENT
PURSUANT TO LOCAL
RULE 56.1**

15 CV 3899 (SJ)(LB)

Defendants.

x

Defendants, by their attorney, ZACHARY W. CARTER, Corporation Counsel of the City of New York, submit this statement pursuant to Rule 56.1 of the Local Rules of the United States District Court for the Eastern District of New York to set forth the material facts as to which defendants contend there are no genuine issues to be tried.

1. On July 11, 2014, at approximately 9:30 p.m., defendant Police Officer Oldson Ajesulas arrested plaintiff inside of a pizzeria located 70-29 Parsons Boulevard in Queens. See Complaint, Docket Entry # 1 (“Complaint”), ¶¶13-15, Declaration of Karl J. Ashanti dated ___, 2016 (“Ashanti Decl.”), Exhibit “A”; Kadeem Morgan Arrest Report, Ashanti Decl., Exhibit “B.”

2. Prior to his arrest, plaintiff interacted with non-party Brent Martin. See Complaint, ¶¶13-15, Ashanti Decl., Exhibit “A.”

3. Plaintiff was arrested for a violation of Penal Law § 220.31, Criminal Sale of a Controlled Substance in the Fifth Degree (Class D felony), after Officer Ajesulas and his partner, Police Officer Lisa Skladel, observed plaintiff engage in a hand to hand drug transaction with

Brent Martin, whereby plaintiff sold Martin crack-cocaine. Kadeem Morgan Arrest Report, Ashanti Decl., Exhibit “B;” Excerpts from the Transcript of the Deposition of Oldson Ajesulas (“Ajesulas Dep.”), dated May 25, 2016, Ashanti Decl., Exhibit “C,” pp. ____;

4. Officer Ajesulas also arrested Brent Martin. Brent Martin Arrest Report, Ashanti Decl., Exhibit “D.”

5. Brent Martin was arrested for a violation of Penal Law § 220.03, Criminal Sale of a Controlled Substance in the Seventh Degree (Class A Misdemeanor). Brent Martin Arrest Report, Ashanti Decl., Exhibit “D.”

6. Brent Martin was in possession of crack-cocaine at the time of his arrest on July 11, 2014. See Complaint, ¶14, Ashanti Decl., Exhibit “A;” Brent Martin Arrest Report, Ashanti Decl., Exhibit “D.”

7. Brent Martin accepted a guilty plea in order to resolve the related criminal proceedings that followed his arrest. Criminal Appearance History of Brent Martin, Ashanti Decl., Exhibit “E.”

8. Defendant Sergeant Jonathan Rosario verified the arrests of Kadeem Morgan and Brent Martin. Kadeem Morgan Arrest Report, Ashanti Decl., Exhibit “B;” Brent Martin Arrest Report, Ashanti Decl., Exhibit “D.”

9. Following his arrest, plaintiff was transported to the 107th Precinct for arrest processing. Kadeem Morgan Arrest Report, Ashanti Decl., Exhibit “B.”

10. After arrest processing, plaintiff was released on his own recognizance at arraignment, following approximately twenty-two (22) hours and fifteen (15) minutes in police custody. See Complaint, ¶16, Ashanti Decl., Exhibit “A;” OLPA, Ashanti Decl., Exhibit “F.”

11. At arraignment, plaintiff was also given a date of August 1, 2014 for a return to court concerning the criminal charges. See Complaint, ¶16, Ashanti Decl., Exhibit "A."

12. At the August 1, 2014 court date, plaintiff was preliminarily deemed to have violated the conditions of his then pending five (5) year term of probation stemming from an arrest that occurred on March 1, 2012. See Complaint, ¶17, Ashanti Decl., Exhibit "A."

13. Plaintiff was remanded into custody and was held from August 1, 2014 until December 19, 2014, on which date the Honorable Douglas Wong of Queens Criminal Supreme Court held a violation of probation ("VOP") hearing at which plaintiff appeared. Id.

14. The hearing was held because the New York City Department of Probation sought a ruling that plaintiff had violated the terms of his probation by means of his arrest on July 11, 2014 ("July 11, 2014 arrest"). See Transcript of Plaintiff's December 19, 2014 Violation of Probation Hearing ("Probation Hearing"), generally, Ashanti Decl., Exhibit "G."

15. At the hearing, plaintiff accepted an offer of the Court for a VOP specification concerning the July 11, 2014 arrest that included: 1) a term of ten (10) months of incarceration; and 2) *an admission of probable cause concerning the July 11, 2014 arrest.* See Probation Hearing, p. 7, Ashanti Decl., Exhibit "G."

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16. The criminal charges stemming from the July 11, 2014 arrest were dismissed on the motion of the Queens District Attorney's Office on February 3, 2015. See Complaint, ¶18, Ashanti Decl., Exhibit "A; Certificate of Disposition, Ashanti Decl., Exhibit "H."

Dated: New York, New York
June 14, 2016

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